

County of Contra Costa Policy Regarding Claims for Excess Proceeds

PURPOSE

- I. California Revenue and Taxation Code section 4675 describes how excess proceeds from sales of tax-defaulted properties by a county tax collector must be distributed. This statute also identifies the information and proof necessary to establish a claimant's rights to all or any portion of excess proceeds.
- II. The Contra Costa County Board of Supervisors through Resolution 2015/68 has authorized the Contra Costa County Treasurer-Tax Collector to distribute excess proceeds in accordance with the rules and procedures set forth in this policy. [Cal. Rev. & Tax. Code, § 4675.1.]
- III. The Contra Costa County Board of Supervisors approved amendments to this policy through Resolution 2017/301.

RULES AND PROCEDURES

1. NOTIFICATION

- a. When excess proceeds from the sale of tax-defaulted property exceed one hundred fifty dollars (\$150), the Treasurer-Tax Collector's Office has ninety (90) days to notify potential claimants of the right to claim excess proceeds. (A sample notice, "Notice of Excess Proceeds to Interested Parties", is attached as Attachment 1.)
- b. The law requires the Treasurer-Tax Collector's Office to mail notice to the last known mailing address of interested parties as identified by statute, (e.g., the last named owner on the assessment roll and lienholders). The Treasurer-Tax Collector's Office shall make a reasonable effort to obtain the name and last known mailing address of interested parties. [Cal. Rev. & Tax. Code, §§ 4675, 4676(c).]
- c. If the last known address of an interested party cannot be obtained, the law requires the Treasurer-Tax Collector's Office to publish notice of the right to claim excess proceeds in a newspaper of general circulation in the County, unless the cost to publish is equal to or greater than the amount of the excess proceeds.

2. **CLAIM REQUIREMENTS:** As described below, each claimant must submit a completed Contra Costa County Treasurer-Tax Collector's Excess Proceeds Claim Form and supporting documentation, which provides information and proof of the claimant's right to all or any portion of excess proceeds.

2.1 **CLAIM FORM**

- a. Along with Notice of Excess Proceeds to Interested Parties, the Treasurer-Tax Collector's Office will mail a Contra Costa County Treasurer-Tax Collector's Excess Proceeds Claim Form ("Claim Form") to the interested parties it has located after making a reasonable search. (A sample Claim Form is attached as Attachment 2.)
- b. An interested party or other claimant must use the Claim Form to make a claim for excess proceeds.
- c. If an interested party or other claimant does not receive the Claim Form or needs additional copies, the Claim Form may be obtained:
 - i. by downloading it from the Contra Costa County website at www.cctax.us; or
 - ii. upon request via standard USPS mail (if a claimant provides a self-addressed, stamped envelope for delivery), email or fax.
- d. Failure to receive a Claim Form from the Treasurer-Tax Collector's Office is not an excuse for failing to properly and timely submit a claim on a Claim Form and supporting documentation.

2.2 **INFORMATION ON FORM**

- a. The Claim Form must include the following information:
 1. Assessor Parcel Number.
 2. Last assessee/owner of record.
 3. Property address.
 4. Date of tax sale.
 5. Date the tax deed was recorded.
 6. Final date to submit claim for excess proceeds.
 7. The amount or percentage of excess proceeds of the claim (the amount of available excess proceeds from each tax sale is available on the County of Contra Costa Treasurer-Tax Collector's website at www.cctax.us > Tax Info > Tax Information > Annual Public Auction).
 8. Claimant's filing status, i.e.,:
 - i. Person or entity, such as a business, trust or other legal entity,

- ii. Lienholder of Record;
 - iii. Qualified Heir of Person with Title of Record; or
 - iv. Assignee of an Interested Party.
9. Claimant’s name, address, telephone number, email address and signature.
- b. The Claim Form must be verified under penalty of perjury and properly notarized. [Cal. Civ. Code, § 1189.]

2.3 SUPPORTING DOCUMENTATION

- a. In addition to filing a completed, verified Claim Form, the claimant must also fill out and file applicable documentation described in Appendices A and B.

3. SUBMISSION OF CLAIM

- a. **The deadline (the “Deadline”) to file a completed claim with the Contra Costa County Treasurer-Tax Collector’s Office is one (1) year following the date of the recording of the deed to the purchaser of the tax-defaulted property. The claim shall be postmarked on or before the one-year expiration date to be considered timely.**

- i. A claimant may not file or amend a claim after the Deadline. It is the claimant’s sole responsibility to timely submit a complete claim, including all necessary supporting documentation.
 - ii. A claimant may not rely on the Treasurer-Tax Collector’s Office to approve or request information to supplement incomplete claims.
- b. The claimant must mail completed claims, including all supporting documentation, to:

Treasurer-Tax Collector
County of Contra Costa
ATTN: EXCESS PROCEEDS
625 Court Street, Suite 100
Martinez, CA 94553

- c. Each interested party must file his or her own claim, unless:
 - i. the interested party has assigned his or her rights to another party.
When the interested party has assigned his or her rights, the claim must

- include information and documentation establishing the assignment described in Appendices A and B (a sample Assignment of Right to Collect Excess Proceeds Form is attached as Attachment 3); or
- ii. the claim is submitted on behalf of an interested party by an agent, attorney in fact, or person with valid powers of attorney along with the evidence establishing such a relationship with the interested party described in Appendices A and B. In those cases where the Treasurer-Tax Collector's Office determines the claim is valid and there is sufficient excess proceeds, payment will be sent to the address of the attorney, agent, or attorney in fact, but shall only be made payable to the interested party.
 - d. Generally, each claimant must submit his or her claim in a separate envelope. However, multiple claimants may submit their individual claims (each claim on a separate Claim Form) in a single envelope if they are sharing supporting documentation.
 - e. For each claim filed on a Claim Form and received by the Deadline, the Treasurer-Tax Collector's Office will send the claimant a letter acknowledging receipt of claim. (A sample "Acknowledgement of Claim for Excess Proceeds Received" is attached as Attachment 4.)

4. **PRELIMINARY CLAIM REVIEW**

- a. The Treasurer-Tax Collector's Office may review claims filed during the eleven (11) months following the recording of the deed to the purchaser for completeness. That preliminary review is intended as an opportunity for the Treasurer-Tax Collector's Office to make an evaluation of the claim for purposes of determining whether additional documentation is needed. However, the Treasurer-Tax Collector's Office does not guarantee any preliminary review of claims. Interested parties may contact the Treasurer-Tax Collector's Office to inquire about the status of the preliminary review and may submit missing documents or information during this period if notified by the Treasurer-Tax Collector's Office to do so. Missing documents or information will not be accepted after the Deadline.
- b. The Treasurer-Tax Collector's Office may send a claimant one (1) Preliminary claim Review letter notifying the claimant of the Office's findings, including whether additional information needs to be provided. The Treasurer-Tax Collector's Office will send any such letters to the address for claimant shown on the Claim Form. The Preliminary Claim Review letter may ask the claimant to submit any additional documentation that the Treasurer-Tax Collector's Office determines is

necessary to complete the original claim. The claimant must file any such additional documentation with the Treasurer-Tax Collector's Office before the Deadline. No time extensions will be permitted.

- c. The Treasurer-Tax Collector's Office will not perform a preliminary review of claims received during the final thirty (30) days of the one (1) year filing period.
- d. The Treasurer-Tax Collector's Office will not accept claims or amendments to claims after the Deadline.

5. **FINAL CLAIMS REVIEW**

- a. After the Deadline, the Treasurer-Tax Collector's Office will perform a final review of the claim.
- b. Except as provided in subsection (e) below, the Treasurer-Tax Collector, or designee, will decide, in his or her sole discretion, whether the claim and supporting documentation sufficiently evidence existence of a recorded document supporting claimant's right to excess proceeds.
- c. The Treasurer-Tax Collector's Office will either approve or deny the claim, in whole or in part, and notify the claimant of the decision.
- d. For each claim approved by the Treasurer-Tax-Collector's Office, the Treasurer-Tax Collector's Office will determine the order of claimant's priority to the excess proceeds. [See Cal. Rev. & Tax. Code, § 4675.]
- e. In certain instances, the Treasurer-Tax Collector's Office may choose to file a legal action known as an "interpleader" to ask the Contra Costa County Superior Court to decide who should receive the excess proceeds. For example, this might occur when the validity of a claim or the priority of claimants to excess proceeds is unclear and there is a potential dispute among claimants.

6. **DISTRIBUTION OF EXCESS PROCEEDS:** After the Treasurer-Tax Collector's Office has distributed excess proceeds from a tax sale under Sections 4672, 4672.1, 4672.2, 4672.3, 4673 and 4673.1 of the Revenue and Taxation Code, it will distribute the remaining excess proceeds as follows:

- a. The Treasurer-Tax Collector's Office will first deduct from the excess proceeds an amount equal to the costs of obtaining the name and last known mailing address of interested parties and of mailing or publishing required notices and distribute that amount to the Contra Costa County General Fund. [Cal. Rev. & Tax. Code, § 4676(d).]
- b. If there are sufficient excess proceeds after the above-described distributions and those claims that have higher priority, a claimant will be paid amount of his or her claim that is approved by the Treasurer-Tax Collector's Office. [Cal. Rev. & Tax. Code, § 4675(e).]
- c. The Treasurer-Tax Collector's Office will transfer any remaining excess proceeds that are not claimed by the time to do so under Revenue and Taxation Code section 4675(e) to the Contra Costa County General Fund. [Cal. Rev. & Tax. Code, § 4674.]

APPENDIX A

1. Person(s) with Title of Record	8
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1. **PERSON(S) WITH TITLE OF RECORD:** The person(s) or entity who held record title to the tax-defaulted property must submit the following documents:
 - b. Original or certified copies of the recorded documents (e.g., deed, court order) supporting claimant's right to excess proceeds as the person(s) or entity that held record title to the tax-defaulted property. If title to the property was in a recorded trust, the original trust document or Certification of Trust indicating that the claimant(s) is/are the trustee(s) or successor trustee(s) of the trust authorized to file claims on behalf of the trust.
 - c. If a business held record title to the tax-defaulted property, the claimant must submit documents that show the business and claimant's right to make a claim. For the documents required of various business entities, please refer to Appendix B.

2. **QUALIFIED HEIR OR SUCCSSOR OF PERSON(S) OR ENTITY WITH TITLE OF RECORD OR OTHER INTERESTED PARTY:** Qualified heir(s) of a person who held record title to the tax-defaulted property or other interested party must submit the following:
 - a. Documentation proving claimant is an heir to a person(s) who held record title to the tax-defaulted property or other interested party (e.g., court order, petition for letters of administration).
 - b. If applicable, a notarized probate affidavit. [Cal. Prob. Code, §§ 13100-13116.] A form affidavit is available for download on the Contra Costa County Treasurer-Tax Collector's website at www.cctax.us > Tax Info > Tax Information > Excess Proceeds Policy and Forms and a sample is attached as Attachment 5.
 - c. If applicable, the last will and testament and any codicils thereto of a person(s) who held record title to the tax-defaulted property or other interested party.
 - d. If the interested party is a business, the claimant must submit documents that show the business and claimant's right to make a claim. For the documents required of various business entities, please refer to Appendix B.

3. **LIENHOLDER(S) OF RECORD**

a. **MORTGAGE LENDERS AND DEED OF TRUST BENEFICIARIES:**

Mortgage lenders and deed of trust beneficiaries must submit the following information:

- i. The original or certified copy of the promissory note and all amendments or other modifications (if any) on the tax-defaulted property.
 - a) The only alternative to providing an original or certified copy of the promissory note is a court order pursuant to California Civil Code section 3415, which establishes the existence and terms of a lost note.
- ii. The original or certified copy of the Deed of Trust/Mortgage.
- iii. The original or certified copy of assignments (if any).
- iv. A statement setting forth:
 - a) the original amount of the obligation;
 - b) any advances or modifications to the original obligation;
 - c) the total amount of payments received and date(s) received; and
 - d) the amount still due and payable as of the date of the sale of the tax defaulted property;
 - e) if the note was in default according to its terms at the time of the tax sale (other than for defaulted taxes), documentation evidencing all collection efforts by the claimant; and
- v. If the mortgage lender or deed of trust beneficiary is a business, the claimant must submit documents that show the business and claimant's right to make a claim. For the documents required of various business entities, please refer to Appendix B.

b. **JUDGMENT CREDITORS:** A judgment creditor must submit the following information:

- i. Documents showing the judgment debtor was the person(s) who possessed record ownership of the tax-defaulted property at the time of the tax sale.
- ii. A certified copy of the judgment(s).
- iii. Any statement or orders setting forth any modification(s) to the judgment.
- iv. A statement setting forth:
 - a) the total amount of payments received and date(s) received; and

- b) the amount still due and payable as of the date of the sale of the tax defaulted property.
 - v. If the judgment creditor is a business, the claimant must submit documents that show the business and claimant's right to make a claim. For the documents required of various business entities, please refer to Appendix B.
- 4. **ASSIGNEE(S) OF AN INTERESTED PARTY:** An assignee of an interested party must submit the following information:
 - a. A completed "Assignment of Right to Collect Excess Proceeds" form. The form is available for download on the Contra Costa County website at www.cctax.us > Tax Info > Tax Information > Excess Proceeds Policy and Forms.
 - b. The "Assignment of Right to Collect Excess Proceeds" form must be:
 - i. verified under penalty of perjury;
 - ii. executed by all parties to the assignment;
 - iii. notarized [Cal. Civ. Code, § 1189]; and
 - iv. must contain the following information:
 - a) proof that the amount and source of excess proceeds was disclosed to the interested party;
 - b) that the interested party was advised of his or her right to file a claim for excess proceeds on his or her own behalf directly with the County at no cost; and
 - c) contact information of the interested party, including name, address phone number and email.
 - c. If the assignee of an interested party is a business, the claimant must submit documents that show the business and claimant's right to make a claim. For the documents required of various business entities, please refer to Appendix B.

Any attempted assignment that does not comply with these requirements shall have no effect and will be disallowed.

ATTACHMENT 2

INSTRUCTIONS FOR FILING CLAIM (See Claim Form on Reverse Side)

California Revenue and Taxation Code section 4675 states in part (paraphrased):

Parties of interest and their order of priority are:

- a) First, lien holders of record prior to the recordation of the tax deed to the purchaser, in the order of their priority.
- b) Then, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser. In the event that a person with title of record is deceased at the time of distribution of excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with section 13100) of Part 1 of Division 8 of the Probate Code to support their claim for excess proceeds.
- c) A party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned (§4675).

If you believe you qualify as a party of interest in the sale of tax-defaulted property described on this claim form, please fill out the form stating your status as a party of interest and providing supporting documentation of that status. In completing and submitting your claim, you must follow the instructions in the County of Contra Costa Policy Regarding the Submission of Claims for Excess Proceeds. You have been sent a copy of the Policy with the Claim Form. If you need another copy of the Policy, it is available on the Contra Costa County Treasurer-Tax Collector's website at www.cctax.us or by calling (925) -0 between 9:00 a.m. and 4:00 p.m., weekdays.

PLEASE NOTE: Claims will be processed after one year has passed from the date of the recording of the deed to the purchaser. In order to be considered by the County Treasurer-Tax Collector, completed claims must be postmarked ON BEFORE THE EXPIRATION OF ONE YEAR following the date of the recording of the deed to the purchaser. Please see the FINAL DATE TO SUBMIT CLAIMS appearing on the enclosed notice. Following the Treasurer-Tax Collector's review, the claim will either be approved or denied. The Treasurer-Tax Collector will notify you of the decision. Should the claim be approved, the County Auditor-Controller will issue a county warrant in payment.

**ATTACHMENT 3
COUNTY OF CONTRA COSTA
ASSIGNMENT OF RIGHT TO COLLECT EXCESS PROCEEDS**

I, _____ (the "Assignor"), do hereby assign to _____ (the "Assignee") my right to apply for and collect the excess proceeds from the sale of Assessor's Parcel Number _____ sold at public auction on _____. [Cal. Rev. & Tax. Code, § 4675]. I understand that the Contra Costa County Treasurer-Tax Collector is holding excess proceeds in the total amount of \$_____. Although I have a right to all or a portion of the excess proceeds, I am voluntarily giving up my right to file a claim for them. For valuable consideration received, I have sold my right to collect any excess proceeds to the Assignee. I have disclosed to the Assignee all facts of which I am aware relating to the value of this right I am assigning.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Signature of Assignor/ Interested Party)

(Interested Party/Assignor Name Printed)

(Date)

(Address)

(City/State/Zip)

(Area Code/Telephone Number)

(Email)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA)

On _____ (Date),

before me, _____ (Name and Title of Officer),

personally appeared, _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS MY HAND AND OFFICIAL SEAL

Signature of Notary Public



**ATTACHMENT 3
COUNTY OF CONTRA COSTA
ASSIGNMENT OF RIGHT TO COLLECT EXCESS PROCEEDS**

I, _____ (the "Assignee"), have disclosed to _____ (the Assignor), pursuant to Section 4675 of the California Revenue and Taxation Code, all facts of which I am aware relating to the value of the right being assigned, that I have disclosed to the Assignor the full amount of excess proceeds available in the amount of \$_____, and that I have advised the Assignor of his or her right to file a claim on his or her own without assigning that right.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Signature of Assignee)

(Assignee Name Printed)

(Date)

(Address)

(City/State/Zip)

(Area Code/Telephone Number)

(Email)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA)

On _____ (Date),

before me, _____ (Name and Title of Officer),

personally appeared, _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS MY HAND AND OFFICIAL SEAL

Signature of Notary Public



ATTACHMENT 4

Contra Costa County Tax-Collector's Office

625 Court Street
Finance Building, Room 102
Martinez, California 94553-1231
(925) 608-9500
(925) 608-9598 FAX



Russell V. Watts
Treasurer-Tax Collector

Lulis Lopez
Assistant Tax Collector

ACKNOWLEDGEMENT OF CLAIM FOR EXCESS PROCEEDS RECEIVED

DATE:
NAME:
ADDRESS:
CITY, STATE ZIP

Assessee:

Situs:

Parcel Number:

Date Deed to Purchaser Recorded:

Date Sold:

Final Date to Submit Claim:

Dear:

This letter acknowledges receipt of your claim for excess proceeds by the Contra Costa County Treasurer-Tax Collector's Office. Please refer to the status of your claim as indicated below:

- The claim was timely received and may undergo a preliminary review in accordance with the County of Contra Costa Policy Regarding Claims for Excess Proceeds.
- The claim was timely received but incomplete. Please refer to the County of Contra Costa Policy Regarding Claims for Excess Proceeds, which contains the instructions for filing a claim. The Policy may be downloaded at www.cctax.us.
- The claim was received after the final due date to submit a claim for excess proceeds. The claim is denied.
- Please contact Katrina Schickedanz at (925) 608-9526 for further information.

If you have any questions, please contact Katrina Schickedanz at (925) 608-9526 between 9:00 a.m. and 4:00 p.m., weekdays. Sincerely,

Russell V. Watts
Treasurer-Tax Collector

ATTACHMENT 5

AFFIDAVIT UNDER CALIFORNIA PROBATE CODE SECTION §13101

The undersigned state(s) as follows: _____ (name of decedent) died on _____ (date), in the City of _____, County of _____,

State of _____ and:

1. At least forty days have elapsed since the death of the decedent, as shown by the attached certified copy of decedent's death certificate. (Attach a copy of the death certificate.)
2. Check one of the following, as appropriate:
 - No proceeding is now being or has been conducted in California for administration of the decedent's estate.
 - The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant of the property described in this affidavit.
3. The current gross fair market value of the decedent's real and personal property in California, excluding the property described in the California Probate Code Section 13050, does not exceed \$150,000.
4. Check one of the following, as appropriate:
 - An Inventory and Appraisal of the real property in the decedent's estate is attached (*Probate Form DE-160, DE-161*), or
 - There is no real property in the estate.
5. The following is a description of the property that is to be paid, transferred or delivered to the undersigned under the provisions of California Probate Code section 13100:

(If more information, please attach additional sheets if necessary.)

6. The successor(s) of the decedent, as defined in Probate Code Section 13006, is/are:

7. Check one of the following, as appropriate:
 - The undersigned is/are successor(s) of the decedent to the decedent's interest in the described property, or
 - The undersigned is/are authorized under California Probate Code Section 13051 to act on behalf of the successor(s) of the decedent with respect to the decedent's interest in the described property.
8. No other person has a superior right to the interest of the decedent in the described property.

ATTACHMENT 5

AFFIDAVIT UNDER CALIFORNIA PROBATE CODE SECTION §13101

9. The undersigned requests that the described property be paid, delivered or transferred to the undersigned.

I/we declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<u>Date</u>	<u>Printed name</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Attach an additional sheet if necessary.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA)

On _____ (Date),

before me, _____ (Name and Title of Officer),

personally appeared, _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS MY HAND AND OFFICIAL SEAL

Signature of Notary Public

